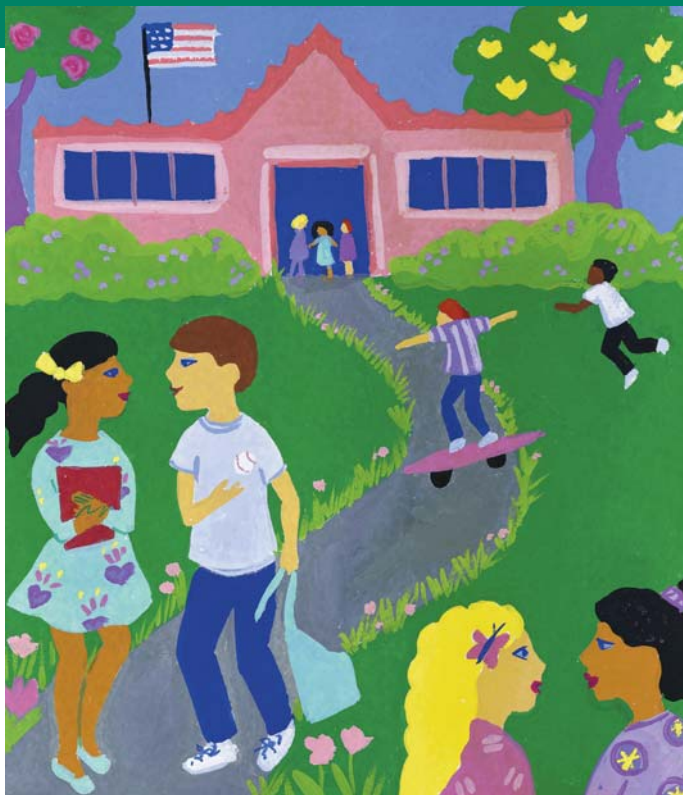


Manual for Title IX Coordinators: Sexual Harassment Prevention in the Schools



New Hampshire Commission on the Status of Women
ask Force

Acknowledgments

The Gender Equity in Education Task Force (“Task Force”), convened by the New Hampshire Commission on the Status of Women, is pleased to present *The Manual for Title IX Coordinators: Sexual Harassment in the Schools* as the first in a series of publications designed to help school districts and Title IX Coordinators ensure that all students have equal access to a safe and supportive education.

The Task Force is comprised of business, organizations, and agencies from throughout the state. The Task Force thanks the following organizations and businesses for their valuable contributions to this Manual.

Bridges: Services for Domestic and Sexual Violence Support
Employment Practices Group
New Hampshire Association of School Administrators
New Hampshire Coalition Against Domestic and Sexual Violence
New Hampshire Department of Education
New Hampshire Public Risk Management Exchange (Primex³)
Sexual Assault Support Services
Starting Point: Services for Victims of Domestic & Sexual Violence

A full listing of Task Force member organizations is listed in the Resource section of the Manual.

The Task Force also thanks Dr. Cindy Gallagher and Lindsay Shaw of New England College for their work in compiling and writing this Manual.

The Task Force acknowledges the generous support of the U.S. Department of Education’s Carl Perkins funding, New Hampshire Public Risk Management Exchange (Primex³), and an anonymous donor through the New Hampshire Human Rights Commission. The funds they provided have made possible the creation of the Manual.

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Additional copies of the Manual are available at \$10 each for shipping and handling through the New Hampshire Commission on the Status of Women, Room 414 State House Annex, Concord, NH 03301; 603-271-2660.

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Letter from the Gender Equity in Education Task Force

Dear Reader:

Since 1969, the Commission on the Status of Women has been charged by the New Hampshire legislature to stimulate and encourage the study and revision of the statutes relative to women in the state; to recommend methods of overcoming discrimination against women in public and private employment and civil and political rights; to promote more effective methods for enabling women to develop their skills, and continue their education; and to secure, so far as possible, appropriate recognition of women's accomplishments and contributions to the state.

In 1998, the Commission established the Sexual Harassment in Education Task Force. In 2002, the Task Force changed its name to the Gender Equity in Education Task Force and expanded its focus to a more inclusive understanding of sexual harassment as a pervasive form of gender discrimination. The goal of the Task Force is to increase knowledge of sexual harassment in the schools and to assist school personnel in developing skills to appropriately respond to incidents.

The Manual for Title IX Coordinators: Sexual Harassment Prevention in the Schools was developed in response to school personnel for a practical and user-friendly resource when responding to incidents of sexual harassment. While the Manual is intended for school personnel who have administrative responsibilities for addressing incidents of sexual harassment, it also serves as a valuable resource for teachers, guidance counselors, students, parents and other concerned individuals. We encourage all readers to use the Manual to address and prevent sexual harassment in the schools.

The Gender Equity in Education Task Force recognizes that sexual harassment is only one form of gender discrimination. This Manual, therefore, is only the first in a series to address the broad spectrum of gender discrimination in schools. Your input is vital in helping us to best develop those materials in the future. We would greatly appreciate your filling out and returning the enclosed evaluation form.

Thank you for your commitment to ensuring each New Hampshire student has an education free of gender discrimination and harassment.

Sincerely,
Jane G. Stapleton, Chair
Gender Equity in Education Task Force
New Hampshire Commission of the Status of Women

Introduction

The 1993 survey, *Hostile Hallways*,¹ conducted by the American Association of University Women (AAUW), revealed that approximately 80% of students experience some form of sexual harassment during their time in school. A similar study conducted in 2000 had findings that remained the same—an astonishing 80% of students still experience some form of sexual harassment. Girls are more likely than boys to experience sexual harassment.

A major difference between the survey findings in 1993 and 2000 is that nearly 70% of the students in 2000 knew that their schools had a sexual harassment policy. While the existence of a policy has not deterred the number of incidents of sexual harassment, more students are aware of sexual harassment policies and the procedures necessary to intervene and stop the harassment. That is an important positive step.

The United States Department of Education Office of Civil Rights (“OCR”) oversees the enforcement of Title IX of the Education Amendments of 1972,² (“Title IX”) in educational settings. Title IX implicitly prohibits sexual harassment as a form of sex discrimination. OCR³ defines sexual harassment as conduct that can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature. The United States Supreme Court has adopted this definition of sexual harassment as well.⁴ Sexual harassment of a student can deny or limit that student’s ability to participate in or receive the benefits, services, or opportunities in school programs.⁵ Some examples of sexual harassment include:

- Making sexual comments, jokes or gestures
- Leaving sexual pictures, photos or notes
- Writing sexual messages or graffiti
- Spreading sexual rumors.

OCR Guidelines require schools to prevent and eliminate known sexual discrimination. Consequently, schools are required to respond to allegations of sexual harassment. Furthermore, the United States Supreme Court has established that school districts may face monetary liabilities when they fail to respond.⁶

In addition to the expectations that exist under Title IX, all New Hampshire public schools also must address bullying in the schools. In 2001, New Hampshire became the first state

in the nation to address bullying through state legislation. The New Hampshire State Legislature adopted the *Pupil Safety and Violence Prevention Act* (the Pupil Safety Law)⁷ to “protect our children from violence by dealing with harassment, including ‘bullying,’ in our public schools.”⁸ The Pupil Safety Law defines bullying as conduct which subjects a pupil to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response from the student being treated in this manner.⁹ The law requires that school districts establish pupil safety policies and reporting mechanisms to address these issues.

This Manual provides a detailed description of the Title IX Coordinator’s role in assisting a school to respond to the requirements of Title IX and the New Hampshire Pupil Safety Law. A goal of this Manual is to provide Title IX Coordinators with the necessary tools and summary of legal principles to support a school’s efforts to eliminate harassment, particularly sexual harassment. This Manual also provides the tools and outlines legal principles to help Title IX Coordinators assist a school in its responses to bullying as required by the Pupil Safety Law.

Frequently Asked Questions about Title IX

Does Title IX Apply to All Aspects of a School's Programs?

Yes, Title IX prohibits discrimination based on sex in all areas of an educational program for any public or private school that receives federal financial assistance. Sexual harassment is a form of sex discrimination. The protections afforded via Title IX are not limited to those areas for which funding was received. Rather, they extend to all parts of any fund recipient's program. For example, if a school receives federal funds for its music department, it may not discriminate based on sex in its science department.

What Legal Claims Does a Student Have if S/he Believes that S/he Is a Target of Sexual Harassment?

A student who is a target of sex discrimination or sexual harassment may have (1) a constitutional/equal protection claim, (2) a Title IX claim, (3) a state Equal Rights Act claim, and (4) other state law claims. In addition, a student has the right to access the local district's administrative procedures.

Can a Student Hold a School Liable Under Title IX for Sexual Harassment Perpetuated by a Teacher in the School?

Over the last ten years, the United States Supreme Court has ruled on two cases in which students were targets of sexual harassment perpetrated by teachers.¹⁰ In both instances, the Court has allowed the students to bring a private cause of action against the school district and to sue for monetary damages. The Court held that Congress intended to afford targets of sex discrimination and harassment access to all appropriate remedies, including compensation and punitive damages.¹¹

A court may award monetary damages when the student can demonstrate that a school official who had the "authority to address the alleged discrimination and to institute corrective measures." The official must have had actual knowledge of the alleged harassment and failed to adequately respond to it. In order for a response to be actionable, it must represent deliberate indifference to the discrimination.¹²

As noted above, a student can pursue a number of different legal avenues when s/he feels like s/he has experienced sexual harassment. However, if a student chooses to pursue liability under a Title IX claim, in most instances, s/he will not be able to hold individual school employees accountable as Title IX deals directly with a “funding recipient,” which typically is a school district.¹³

Can a Student Hold a School Liable Under Title IX for Peer-to-Peer Sexual Harassment?

OCR Guidelines establish that schools are responsible for preventing and eliminating known sex discrimination. As noted above, schools are therefore responsible for responding to sexual harassment, including peer-to-peer sexual harassment.

The United States Supreme Court established that a student can hold a school district liable for monetary damages for its own “deliberate indifference” to remedy the severe instances of peer-to-peer harassment for which it has actual knowledge.¹⁴ To win a Title IX case against a school district, the student must demonstrate that (1) after a school had notice of the circumstances, it made an “official decision” not to remedy a situation, (2) it created a circumstance in which the target student is discriminated against because the peer-to-peer harassment is severe, pervasive and objectively offensive, and (3) it denies him/her equal access to education.¹⁵

What Can a School Do to Prevent Sexual Harassment?

The best way for a school to deal with sexual harassment is to prevent it from happening. Schools can take a number of steps. It can (1) develop and publicize a sexual harassment policy that clearly establishes that harassment, including sexual harassment, will not be tolerated and identifies the types of behaviors that might be considered sexual harassment; (2) develop and publicize a grievance procedure for resolving complaints about sexual harassment; (3) develop methods to inform all members of the school community, including parents, about the policy and procedures; and (4) conduct educational training and awareness programs that are developmentally appropriate for all ages to ensure that students, parents, faculty and staff understand sexual harassment. The specific requirements for New Hampshire schools, including the mandate that policies be written in age-appropriate language, are detailed in the New Hampshire Education Administrative Rules at § 303.01 (i), (j) and (k). A copy of this regulation is provided in the Appendix.

The Role of the Title IX Coordinator

Title IX establishes that each school district that receives federal funds must protect students from sexual harassment. To help accomplish this task, Title IX requires that each district select a Title IX Coordinator. Generally, the Title IX Coordinator is responsible for promoting a school environment that is free of gender bias and sexual harassment.

The following list provides examples of a Title IX Coordinator's duties and responsibilities.

- Develop a working knowledge of Title IX and New Hampshire anti-discrimination laws and implementing regulations.
- Keep informed of current research and judicial decisions related to Title IX and gender equity. A look at the resource lists at the end of the Manual can be of assistance.
- Participate in the development, implementation, and evaluation of the District's Title IX policy and procedures.
- Develop Sexual Harassment Title IX complaint procedures for students, teachers, and staff.
- Provide public notice of the complaint procedures and the name and contact information of the Title IX Coordinator.
- Monitor and evaluate the District's Title IX compliance efforts and make recommendations for any appropriate changes.
- Provide in-service training to help teachers, staff, and students understand the policies and procedures.
- Serve as a resource to the Superintendent on Title IX/gender issues.
- Attend state and national conferences specifically for Title IX coordinators and/or on gender equity issues generally, and share the information with local administrators, staff, and faculty.

Harassment Policies and Title IX Grievance Procedures

Harassment Policy

A harassment policy and well-developed grievance procedures are very important tools in any school community because they can educate members of the school community about what is acceptable and unacceptable behavior. Consequently, a harassment policy and grievance procedures can help improve the school climate.

Before beginning to construct a harassment policy, school leaders should examine how they are going to make the policy effective. One recommendation is to involve the entire school community (students, parents, faculty and staff) in brainstorming ideas and thoughts about harassment. Research has shown that when members of a group collaborate on policy development, the policy (1) is user friendly; (2) may foster more pride; and (3) results in greater commitment to following the policy.

OCR and New Hampshire Education Regulations¹⁶ require all schools to adopt and publish a policy against sexual harassment. While the primary focus of this Manual is Title IX and sexual harassment, schools are required to have a harassment policy and grievance procedures for staff and students that include protections against harassment based on race, color, religion, sex, marital status, national origin, age, disabilities, and sexual orientation.¹⁷

Components of a Sexual Harassment Policy

A written harassment policy should include the following components:

- A statement articulating the school's commitment to eliminate harassment
- A definition and examples of the conduct which is prohibited
- A statement that such conduct will not be tolerated and may result in disciplinary actions
- A clear complaint procedure that encourages timely complaints
- A statement that complaints will be investigated and a description of the investigation procedures

-
- Alternative reporting processes so that a target will not have to report harassment to an alleged harasser
 - A statement that the school will attempt to protect confidentiality—but not offering any guarantees
 - A prohibition against retaliation by or on behalf of an alleged harasser
 - The name, position, and contact information of the employee(s) responsible for accepting and managing complaints of harassment
 - The reporting requirements for teachers and staff who have knowledge of harassment

An example of a sexual harassment policy is provided in the Appendix. Schools should not, however, adopt the language of “model” harassment policies because each school is different and the policy should be tailored to the school.

Title IX Grievance Procedures

In order to eliminate harassment of any kind, a school must have a proper grievance procedure in place. When assessing the effectiveness of a school district's policy and procedures, OCR reviews a number of elements including:

- **Notice:** Schools must provide students, parents and employees of the procedures, including where complaints may be filed.
- **Application:** The policy and procedures must be applied to complaints alleging harassment.
- **Investigation:** There should be adequate, reliable, and impartial investigations of complaints that includes opportunities to present witnesses and other evidence.
- **Timeframes:** The policy and procedures should define reasonable timeframes for the major steps in a complaint procedure and ensuing investigation.
- **Outcome:** The complaining party and accused should receive notice of the outcome.
- **Assurances:** The school district should offer assurances that it will take steps to prevent recurrences of any harassment and, when appropriate, to correct the discriminatory effect on the target.
- **Retaliation:** Schools need to include a provision in the procedures that states a prohibition against retaliation.
- **Appeal:** Schools need to offer an opportunity to appeal the findings or remedies.

Components of a Title IX Grievance Procedure

The following is a list of components that are necessary for a fair and safe complaint investigation procedure.

Provisions Related to Initiating a Sexual Harassment Grievance

- Describe who may file a grievance (students, parents, faculty, staff, etc.)
- Describe what constitutes a grievance
- Define clear time limits for submitting a grievance
- Specify the availability of any assistance for the person who initiates a grievance

Provisions Related to the Processing of a Sexual Harassment Grievance

- Define the number and levels of steps in the process
- Define the notice requirements
- Identify timelines for each step
- Identify the roles and/or the selection of persons involved in the grievance process

Provisions Related to the Basic Procedural Rights of the Parties to the Grievance

- The right of all parties to impartial decision makers
- Protection of grievant from harassment and retaliation
- Confidentiality of grievance proceedings
- The right of either party to appeal the outcome

Provisions Related to Investigations

- Interview all persons involved, including witnesses
- Do not interview the alleged harasser at the same time as the grievant
- Parents should be given notice and opportunity to attend interviews with young children
- Make sure that no one retaliates against the target or others who may have witnessed the harassment
- Keep complete records of investigations, including a detailed description of the target's allegations, notes on all interviews, the outcome of the investigation, and any actions taken

Title IX Law and Case Interpretation

Overview of the Law

Title IX of the Educational Amendments of 1972¹⁸ is a comprehensive federal law, intended to end sex discrimination in all areas of education. It applies to recipients of federal funds. Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

Generally, Title IX guarantees equal access to education programs funded by the federal government.

Title IX and recent United States Supreme Court rulings have resulted in greater awareness of sex discrimination and sexual harassment. Title IX and the supporting regulations issued by OCR have improved opportunities for girls and women in all aspects of educational programs. Title IX, however, is not about only one gender. It is about ensuring that both females and males have equal educational opportunities. Most recently, students who are targets of sexual harassment perpetuated by both teachers and peers have been able to hold school districts liable for monetary damages under Title IX claims.

United States Department of Education, Office of Civil Rights Guidelines on Sexual Harassment

Title IX and the implementing regulations developed by the United States Department of Education, Office of Civil Rights prohibit discrimination on the basis of sex in federally assisted educational programs and activities. Sexual harassment is a form of gender discrimination.¹⁹ Title IX protects students from sexual harassment in connection with all academic, educational, athletic, and extra-curricular programs of the school.

OCR guidelines define sexual harassment as “unwelcome conduct of a sexual nature,” which can include advances, requests for sexual favors, and verbal, nonverbal, or physical conduct of a sexual nature.

As a condition of receiving funds from the United States Department of Education, a school district is required to comply with Title IX and the implementing regulations.

To comply with the OCR regulations, schools must recognize and respond to sexual harassment. Title IX Coordinators and other interested school employees should refer to the “Notice of Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties” (available at <http://www.ed.gov/offices/OCR/shguide/index.html#Guidance>).

Interplay Among Title IX and Title VI, Title VII, Section 504 and the 14th Amendment²⁰

Title VI of the Civil Rights Act of 1964²¹ (“Title VI”) prohibits discrimination based on race, color, or national origin in programs that receive federal funds. Title VI was the first of the civil rights laws that applied to educational programs and activities. Section 504 of the Rehabilitation Act of 1973²² (“Section 504”) prohibits discrimination based on disabilities in federally funded programs. Congress modeled Section 504 after Title VI. Like Section 504, Congress also modeled Title IX after Title VI. Congress enacted the statutes to prevent and provide remedies for unlawful discrimination in schools. All three statutes enforce their respective nondiscrimination clauses through control of access to federal funds.

The federal civil rights statutes have parallel provisions and similar analytical frameworks. However, there are also important differences among the statutes. First and most importantly, Title IX does not provide the far-reaching impact of Title VI and Section 504. It is limited to educational programs and activities. Further, Title IX contains several “exemptions” which allow for discrimination based on sex—neither Title VI nor Section 504 provides similar exemptions. Some of the exemptions under Title IX include:

- Title IX does not cover the single-sex admissions policies in elementary or secondary schools nor private undergraduate colleges.
- Title IX exempts voluntary single-sex, tax-exempt youth service organizations whose members are mostly under the age of 19. For example, this includes Girl and Boy Scouts, YMCA, YWCA, etc.
- Title IX exempts programs or activities affiliated with the organization and operations of any Boys State Conference, Girls State Conference, Boys Nation Conference, and Girls Nation Conference.
- Title IX does not apply to “father-son” or “mother-daughter” activities at educational institutions so long as schools provide reasonably comparable activities for both sexes.

While Title IX provides statutory exemptions that allow for discrimination based on sex, schools may still have a constitutional duty not to discriminate based on sex. The United States Supreme Court restricts a school district’s ability to limit services based on gender to those times when the gender classification serves an important interest and the gender classification is substantially related to achieving that interest.²³ For instance, a nursing school that restricts enrollment based on gender may be supported by a Title IX exemption, but may still violate the 14th Amendment Equal Protection Clause.

Finally, Title IX is also a means by which to address sex discrimination and sexual harassment in employment settings in schools that receive federal funds. When applying Title IX to an employment setting, the interpretation of Title IX follows the legal analysis and interpretation of Title VII of the Civil Rights Act of 1964.²⁴

The New Hampshire Pupil Safety and Violence Prevention Act

In 2001, the New Hampshire Legislature enacted the *Pupil Safety and Violence Prevention Act*, RSA 193-F. The Legislature adopted the law to “protect our children from violence by dealing with harassment, including ‘bullying,’ in our public schools.” Bullying is defined as insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response. The law applies to actions against students by any person, including other students and school employees.

The law requires all school employees to report known incidents of harassment and bullying. The reporting process ultimately should end with notice to the Superintendent. The law also requires each school district to adopt a policy that addresses harassment and bullying. The State Board of Education has developed a technical advisory to assist schools with policy development. Contact the State Board of Education for more information.

An example of a Pupil Safety and Violence Prevention Policy is provided in the appendix.

Student Hazing

New Hampshire’s RSA 631:7²⁵ makes the participation of a person in hazing a class B misdemeanor. Hazing is defined as any act directed toward a student, or any coercion or intimidation of a student to act or to participate in or submit to any act, when: (1) such act is likely or would be perceived by a reasonable person as likely to cause physical or psychological injury to any person; and (2) such act is a condition of initiation into, admission into, continued membership in or association with any organization. Many types of hazing can also be considered sexual harassment. The state statute mandates that public and private schools take reasonable measures to prevent hazing from occurring, yet many schools have neglected to adopt policies relating to hazing. Such policies should include user-friendly and effective complaint procedures, as is the case with harassment and bullying policies.

Case Interpretations

Teacher-to-Student Sexual Harassment

Both the United States Supreme Court and the New Hampshire Courts have issued decisions interpreting the discrimination and harassment laws, and such rulings have precedential effect on New Hampshire school districts. Also, other courts have issued decisions that impact how New Hampshire schools should prevent and correct sexual harassment. Just a few of the significant decisions are highlighted.

Franklin v. Gwinnett County Public School, 503 U.S. 60 (1992).

In this case, a female student complained that a male teacher sexually harassed and abused her at the school. She alleged that school officials knew of the harassment and abuse, yet failed to take corrective action to stop the harassment.

Holding: Under Title IX, a student may have a private cause against a school district for teacher-to-student sexual harassment and may seek unlimited monetary damages as a remedy.

Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998).

In Gebser, the Court heard the case of a high school student, Alida Gebser, a student who had a sexual relationship with a male teacher. She did not report the relationship to school officials. Once school officials became aware of the relationship, however, the teacher was fired. Contrary to the requirements in Title IX, the school did not have a formal sexual harassment policy or an official grievance procedure during the time of the sexual relationship. Gebser sued the district for damages under Title IX.

Holding: A school district may be liable to a student who was sexually harassed by a teacher if the district had actual knowledge of the harassment and was deliberately indifferent to it. Here, the school may be liable for its own lack of action, not for the actions of the teacher, a private party, who was the harasser.

Schneider v. Plymouth State College, 744 A.2d 101 (N.H. 1999).

In this New Hampshire case, a female student alleged that a professor harassed and intimidated her and retaliated against her when she attempted to rebuff him. Her allegations included assertions that he pressured her, sent her flowers, placed her hand on his genitals, and disrobed while working with her in his office.

Holding: The Court established that the relationship between students and those who teach them in post-secondary education is a fiduciary one. This means that the teachers have a duty to create an environment in which the student can pursue education, free from sexual harassment by members of the faculty.

Marquay v. Eno, 139 N.H. 708 (1995).

In this first New Hampshire school sexual harassment case, three female students alleged that teachers and coaches exploited, harassed, assaulted, and abused them. They also alleged that other school employees were aware or should have been aware of the sexual abuse.

Holdings: (1) School employees who have supervisory responsibilities have a duty to protect a student whom they know or should know were being sexually harassed or abused. (2) School districts and school officials have a duty not to hire or retain employees they know or should know have a propensity to sexually abuse students.

Student-to-Student Sexual Harassment

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999).

In Davis, LaShonda Davis was a student who faced repeated acts of sexual harassment from a peer during grade school. LaShonda's mother informed school officials, including

teachers and the principals, after each incident but the school did not respond in a manner that resolved the harassment. LaShonda's mother filed suit against the county school board and school officials seeking damages for the sexual harassment under Title IX. She asserted that the school was deliberately indifferent to the persistent actions of the harasser that resulted in an intimidating, hostile, offensive, and abusive school environment that violated Title IX.

Holding: A school district may be liable to a student who was sexually harassed by another student where the district acted with deliberate indifference and the harassment is so severe or pervasive that it prevents the target from access to an educational opportunity or benefit. Notably, like Gebser, here the school is responsible for its own misconduct, not the actions of the student-harasser, a private party.

Snelling and Snelling v. Fall Mountain Regional School District, CV 99-448-JD
(NH District Court, 2001)

In this case, two brothers endured harassment from members of the school's basketball team and by fellow students. After students complained to the appropriate school officials, the harassment and physical abuse escalated. Many of the inappropriate actions took place while the Athletic Director and a coach were present. Further, the coaches made comments that may have allowed the peers to continue and increase harassment of the boys.

Holding: The United States District Court of New Hampshire applied the Davis rule and held that there was a trial-worthy issue as to the district's liability for its deliberate indifference to the harassment of the boys.

Equity Committees

Each New Hampshire school district that receives Carl D. Perkins Vocational and Technology Funds from the federal government, as administered by the state, must establish an Equity Committee. The primary purpose of the Equity Committee is to assist the Title IX Coordinator and others to create and maintain a school environment free from harassment based on race, gender, national origin, sexual orientation, and disability. Class should be addressed as well. Committee members can also participate in an annual evaluation of vocational programs.

Members of the Equity Committee should have an interest and knowledge base of equity issues. They should also conduct on-going staff and professional development to help expand knowledge of the subject and generate a sense of group cohesion. Schools need to support the Committee by arranging schedules to ensure that they have the time and resources to meet and accomplish their tasks.

The Equity Committee should consist of the following:

- Title IX Coordinator
- Vocational and General Guidance Counselor(s)
- Professional Development Coordinator
- Administrator
- At least three students (two females, one male)
- Parent or adult caretaker of a student enrolled in the district
- Vocational Director

Teen Dating Violence

Harassing behavior perpetrated by a student in the context of an intimate relationship is a sign of dating violence. Teen dating violence, like all domestic violence, is a pattern of coercive behaviors used by one person to gain power and control over another. Abusive behaviors may include physical violence, sexual violence, emotional and psychological intimidation, verbal abuse, stalking, and economic control. A recent Harvard School of Public Health study shows that one in five girls in grades seven to twelve has experienced some form of physical and/or sexual abuse by a dating partner.

Resources are available in New Hampshire to adolescents and teens experiencing dating violence. Toll-free hotlines, sponsored by the New Hampshire Coalition Against Domestic and Sexual Violence, connect callers to 14 local crisis centers for help with teen dating violence. The domestic violence hotline is 1-866-644-3574 and the sexual assault hotline is 1-800-277-5570. Callers need not be in crisis to call the hotlines.

Note: Staff and volunteers of crisis centers, like all New Hampshire residents, are required to report the abuse of a person under the age of 18 to the NH Division for Children, Youth, and Families (1-800-894-5533). If a person under the age of 18 calls the hotline anonymously, a report will not be made.

How Title IX Coordinators Can Address Teen Dating Violence

- *Learn more about resources for teens.* You may be the first or only person the teen tells about their abusive relationship. Extensive information about domestic and sexual violence, from harassment to assault to stalking, can be found at **www.reachoutnh.com** and **www.nhcadsv.org** or by calling the numbers listed above.
- *Learn more about warning signs.* Often times violence in a teen's relationship will happen when the couple is alone and you may not see physical signs like bruises. There are signs of abuse, however, that may be evident, including name-calling and put-downs, extreme jealousy, uncontrolled anger, and attempts to isolate one's partner.
- *Partner with your local crisis center to bring awareness of teen dating violence to students and staff:* offer guest speakers; display public awareness posters; incorporate information about dating violence into lesson plans; develop class discussions about issues related to teen dating violence.

Working With Parents

Educating Children About Harassment

With parental involvement, a school district can be more successful in enforcing a harassment-free academic environment. School districts should encourage parents to discuss with their child what are unacceptable behaviors, including:

- Forcibly grabbing or kissing someone
- Cornering or purposely bumping into someone
- Pinching someone
- Touching someone in an inappropriate way
- Making sexual gestures
- Flashing or mooning people
- Commenting about someone's body
- Spreading rumors or writing graffiti of a sexual nature
- Making kissing sounds or whistling
- Talking about someone's sexual orientation in a way that makes the person uncomfortable

Ways to communicate to parents including sending home memoranda or notices in the school newsletter, holding seminars or training sessions that include parental involvement, and presenting community outreach programs on the topic of sexual harassment where parents are part of the target audience.

Recognizing Potential Signs That a Child May Be Experiencing Harassment

Remind parents that sexual harassment can have serious results. Some signs of a child who is experiencing harassment include:

- Changes in emotions. For example, a child may express increased anger, humiliation, fear, or loss of confidence

-
- Increased complaints of sickness, loss of appetite or trouble sleeping
 - Disruption in the learning process. For example, academically s/he may have trouble concentrating, may get poor grades, and may avoid certain classes or activities to escape the harassment. The child may be absent from school more or eventually drop out.

Actions a Parent Can Take to Help a Child to Stop Harassment

Encourage parents to help their child to respond to harassment and bullying. They can help their child to:

- Tell the harasser to stop if they can do so safely
- Report the harassment and bullying to parents
- Report the harassment and bullying to the proper school authorities

Actions Parents Can Take to Help Eliminate Harassment and Bullying

Several positive steps parents can take include the following:

- Parents should keep a record of what their child reports to them. Know what the harasser said or did and what the child did in return, when each event happened, and the names of people who witnessed the events.
- Parents should report the harassment to the school Title IX Coordinator.
- Parents should file a formal complaint if necessary.

Resources

New Hampshire Commission on the Status of Women

New Hampshire Commission on the Status of Women
State House Annex, Room 414
Concord, NH 03301
(603) 271-2660
Fax: (603) 271-4032
www.state.nh.us/csw

The Commission on the Status of Women serves as a strong voice for women in the state by monitoring legislation, overcoming discrimination against women, promoting opportunities for women to develop their skills and continue their education, and recognizing women for their accomplishments. The Commission oversees the Gender Equity in Education Task Force.

Gender Equity in Education Task Force

The Gender Equity in Education Task Force, convened by the New Hampshire Commission on the Status of Women, is a collaboration of statewide education and community groups. One of the long-range goals of these groups is to reduce harassment in New Hampshire schools. The Task Force hopes to help educators address the problem by training them in understanding the laws, the elements and impact of sexual harassment, and providing them with techniques for preventing harassment in schools. Organizations with representatives on the Task Force include:

- Employment Practices Group
- New Hampshire Association of School Administrators
- New Hampshire Coalition Against Domestic and Sexual Violence;
- New Hampshire Department of Education
- New Hampshire Human Rights Commission
- New Hampshire Independent Schools Association
- New Hampshire National Education Association

■ New Hampshire Public Risk Management Exchange (Primex³)

■ New Hampshire School Counselors Association

■ Rape and Assault Support Services

■ Sexual Assault Support Services

■ Starting Point: Services for Victims of Domestic and Sexual Violence

For more information about the Task Force, its members or programs, please contact the New Hampshire Commission on the Status of Women, (603) 271-2660.

Directory of Sexual Harassment Prevention Training Consultants

The consultants listed below have been trained by the Gender Equity in Education Task Force to assist school personnel with issues related to Title IX and sexual harassment. A full profile of each consultant is located at the website of New Hampshire Commission on the Status of Women: **www.state.nh.us/csw**.

Suzette Chaine
Starting Point
P.O. Box 1972, Conway, NH 03818
603-356-7993

Robin Christopherson
Women's Crisis Services
12 Court Street, Keene, NH 03431
603-352-3782

Loel Greene
Loel Greene & Associates
2 Rhode Island Avenue,
Providence, RI 02906
401-521-3935

Kerry Rochford Hague
Women's Supportive Services
11 School Street, Claremont, NH 03743
603-542-8338

Lucy C. Hodder, Esq.
Rath, Young and Pignatelli, P.A.
One Capital Plaza, P.O. Box 1500
Concord, NH 03302
603-226-2600

Linda Johnson
Mclane, Graf, Raulerson & Middleton, P.A.
PO Box 326, Manchester NH 03105-0326
603-628-1267

Dianne Karpman
Sexual Assault Support services
7 Junkins Avenue, Portsmouth, NH 03801
603-436-4107

Gail Kennedy-Haines
Bridges
P.O. Box 217, Nashua, NH 0306
603-889-0858

Dianne C. Lavoie
Sexual Assault Support Services
7 Junkins Avenue, Portsmouth, NH 03801
603-436-6428

Thomas J. Mahon
NH Public Risk Management Exchange
46 Donovan Street, Concord, NH 03301
603-225-2841

Suzanne Moberly
The Support Center at Burch House
P.O. Box 965, Littleton, NH 03561
603-444-0624

Julie Moore, Esquire
Employment Practices Group
93 Sherwood Drive, N. Andover, MA 01845
978-683-8028

Jeanne Robillard
The Support Center at Burch House
P.O. Box 965, Littleton, NH 03561
603-444-0624

Abby Tassel
Dartmouth College
7 Pope Ferry Road, Hanover, NH 03755
603-650-1430

Marjorie Waters
Rape & Domestic Violence Crisis Center
P.O. Box 1344, Concord, NH 03302-1344
603-225-7376

Patricia Yosha
Gender Equity Consultant
24 String Bridge, Exeter, NH 03833
603-772-3782

Government and Legal Resources

New Hampshire Department of Education

101 Pleasant Street, Concord, NH 03303-3860
Phone: (603) 271-3494
Fax (603) 271-1935
www.ed.state.nh.us

For questions regarding Title IX—Please contact Sue McKevitt, 603-271-6613
Email: smckevitt@ed.state.nh.us

US Department of Education, Region 1

Office of Civil Rights (OCR)
140 Federal Street, 14th Floor, Boston, MA 02110
Phone: (617) 223-9317 or (617) 223-9696
www.ed.gov/offices/OCR

New England Equity Assistance Center, Region 1

Brown University
222 Richmond Street, Suite 300, Providence, RI 02903
Contact: Maria Pacheco, Director
Phone: (800) 521-950 or (401) 274-9548
Fax: (401) 351-9594
E-mail: web-admin@alliance.brown.edu
www.alliance.brown.edu/programs/eac

Organizations

American Association of University Women

1111 Sixteenth Street N.W., Washington, DC 20036

Phone: (800) 326-AAUW

Fax: (202) 872-1425

TDD: (202) 785-7777

E-mail: info@aauw.org

www.aauw.org

The newest AAUW publication on sexual harassment in schools is *Harassment Free Hallways: How to Stop Sexual Harassment*. It is available at

www.aauw.org/research/index.cfm

Bridges: Services for Domestic and Sexual Violence Support

P.O. Box 217, Nashua, NH 03061-0217

Crisis line: 603-883-3044

Nashua office: 603-889-0858

Milford office: 603-672-9833

New Beginnings: A Women's Crisis Center

P.O. Box 622, Laconia, NH 03246

Crisis line: 1-800-852-3388

Office: 603-528-6511

New Hampshire Coalition Against Domestic & Sexual Violence

P.O. Box 353, Concord, NH 03302-0353

Tel: 603-224-8893

Fax: 603-228-6096

www.nhcadsv.org

Rape and Domestic Violence Crisis Center

P.O. Box 1344, Concord, NH 03302-1344

Crisis line: 1-800-852-3388

Office: 603-225-7376

RESPONSE to Sexual & Domestic Violence

c/o Coos County Family Health Service

54 Willow Street, Berlin, NH 03570

Crisis line: 1-800-852-3388

Berlin office: 603-752-5679

Colebrook office: 603-237-8746

Lancaster office: 603-788-2562

A Safe Place

6 Greenleaf Woods # 101, Portsmouth, NH 03802

Crisis line: 1-800-852-3388

Portsmouth office: 603-436-7924

Rochester office: 603-330-0214

Salem office: 603-890-6392

Sexual Assault Support Services

7 Junkins Avenue, Portsmouth, NH 03801

Crisis line: 1-800-747-7070

Portsmouth office: 603-436-4107

Rochester office: 603-332-0775

Sexual Harassment and Rape Prevention Program (SHARPP)

University of New Hampshire

Huddleston Hall, Room 202, Durham, NH 03824

Phone: (603) 862-3494 (crisis line & office)

www.unh.edu/sharpp

Starting Point: Services for Victims of Domestic & Sexual Violence

P.O. Box 1972, Conway, NH 03818

Crisis line: 1-800-336-3795

Conway office: 603-356-7993

Ossipee office: 603-539-5506

The Support Center at Burch House

P.O. Box 965, Littleton, NH 03561

Crisis line: 1-800-774-0544

Littleton office: 603-444-0624

Woodsville office: 603-747-2441

Survivors of Educator Sexual Abuse & Misconduct Emerge

Terri Miller

P.O. Box 905, Pahrump, Nevada 89041

E-mail: Babe4justice@aol.com

www.ncweb.com/org/rapecrisis/sesamehome.html

Voices Against Violence

P.O. Box 53, Plymouth, NH 03264

Crisis line: 603-536-1659

Office: 603-536-3423

Women's Crisis Services of the Monadnock Region

12 Court Street, Keene, NH 03431-3402

Crisis line: 603-352-3782

Keene office: 603-352-3844

Jaffrey office: 603-532-6800

Women's Information Services (WISE)

79 Hanover Street, Suite 1, Lebanon, NH 03766

Crisis line: 603-448-5525

Office: 603-448-5922

Women's Equity Resource Center

55 Chapel Street, Newton, Ma 02458-1060

Phone: 1-800-225-3088

TTY: 1-800-354-6798

Email: WEEActr@edc.org

www.edc.org/WomensEquity/

Women's Supportive Services

11 School Street, Claremont, NH 03743

Crisis line: 1-800-639-3130

Claremont office: 603-543-0155

Newport office: 603-863-4053

YWCA Crisis Services

72 Concord Street, Manchester, NH 03101

Crisis line: 603-668-2299

Manchester office: 603-625-5785

Derry office: 603-432-2687

Appendix

Example of a Sexual Harassment Policy²⁶

Sexual Harassment Policy

Purpose

The _____ School District wishes to provide an educational environment in which everyone may work and learn in an atmosphere of respect for the dignity and worth of all. This environment must be free of sexual harassment. In order to promote this environment, the administration will disseminate to all staff and students written policies and procedures designed to protect them from being sexually harassed.

Sexual harassment of any employee or student by any other employee or student, or by anyone a student or employee may interact with in order to fulfill job or school responsibilities, is not only illegal as a form of sex discrimination as defined by Title VII of the 1964 Civil Rights Act and Title IX of the Educational Amendment of 1972 but also is a violation of the District's policy.

Definition of Sexual Harassment

Sexual harassment is offensive behavior (often but not always of a repetitious nature) that includes unwelcome sexual advances, requests for sexual favors, or other conduct wherein:

- Submission to such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting that individual;
- Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating or offensive environment.

It is recognized that, particularly in the case of students, school officials or staff may play an active role in identifying and/or articulating the "unwelcome" nature of sexual advances or other conduct.

Conduct that may be considered sexual harassment includes such things as:

- Verbal harassment or abuse
- Subtle pressure for sexual activity
- Sexist remarks about an individual's clothing, body or sexual activities
- Unnecessary/unwelcome physical contact
- Demands for sexual favors accompanied by implied or overt threats concerning one's job, grades, letters of recommendation, etc.
- Physical assault
- Display of sexually suggestive objects, pictures or gestures

Sexual harassment will be treated as a major disciplinary offense so that, depending on the circumstances and the degree of harassment, the offender may be disciplined with a warning, verbal/written reprimand, or suspension or be subject to discharge or expulsion. Additionally, some forms of sexual harassment are considered violations of criminal law and, as such, must be referred to legal authorities.

Refer to the grievance procedure accompanying this policy statement in addressing student or employee complaints.

Example of a Pupil Safety and Violence Protection Policy

Pupil Safety and Violence Protection Policy

The Board is committed to providing all pupils a safe school environment in which all members of the school community are treated with respect. This policy is intended to comply with RSA 193-F, which specifically identifies "bullying" as a form of pupil harassment. Conduct constituting bullying will not be tolerated, and is prohibited by this Policy, in accordance with RSA 193-F.

Bullying Defined

Bullying is conduct which subjects a pupil to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response from the student being treated in this manner. The Superintendent will develop administrative regulations to implement this definition.

Reporting Procedures

Any school employee, employee of a company under contract with a school in the District, or the District itself who has witnessed or has reliable information that a pupil has been subjected to "bullying," as defined above, shall report such incident to the Principal, or his/her designee, who shall in turn report the incident to the Superintendent. The Principal is initially responsible for receiving oral or written reports of violations of this Policy. The Principal may designate, in writing, an additional person to receive such

reports. After receiving any such report, the Principal shall report the incident to the Superintendent. If the Principal receives the information verbally, he/she shall reduce the report to writing and forward it to the Superintendent. If the Principal received the information in writing, he/she shall forward what he/she received to the Superintendent. The District will make available forms for reporting incidents of bullying, and shall encourage the use of these forms. Such forms shall be available in the Principal's office in each building and the Superintendent's Office.

Investigation

The Superintendent shall direct an investigation to be made of reports of bullying.

Training

The Superintendent may develop age-appropriate methods of discussing the meaning, substance, and application of this Policy with staff and students in order to minimize the occurrence of bullying, and for staff to effectively respond to any such incidents.

Notice of Policy

The Superintendent shall provide notice to students and staff of this Policy through appropriate references in the student and employee handbooks or through other reasonable means. The Superintendent shall also make all contractors contracting with the District aware of this Policy.

Discipline

If an investigation concludes that a person engaged in bullying conduct prohibited by this Policy and implementing administrative regulations, that person shall be subject to appropriate disciplinary action, which may include, but not be limited to, suspension and expulsion. Any such disciplinary action shall be taken in accord with applicable school board policy and legal requirements.

NH Department of Education Regulations: Part Ed 303: Duties of School Boards (RSA 21-N:9, II [b])

Substantive Duties. Each school board shall:

(i) Adopt a rule to ensure that there shall be no unlawful discrimination on the basis of sex, race, age, creed, color, marital status, national origin, or disability in educational programs or activities consistent with local standards that may be stricter in specific areas than the broader statewide standards;

(j) Establish a policy on sexual harassment that shall include at a minimum the elements specified below:

- A statement that sexual harassment is against the law and against school district policy;
- A definition of sexual harassment and give examples of actions that might constitute sexual harassment;
- The names and roles of all persons involved in implementing the procedures;

-
- A description of the process so all parties know what to expect, including time frames and deadlines for investigation and resolution of complaints;
 - A prohibition against retaliation toward anyone involved in a complaint;
 - A description of possible penalties including termination;
 - A requirement that a written factual report be produced regardless of the outcome of the investigation;
 - At least one level of appeal of the investigator's recommendation;
 - State clearly that someone can bypass the internal process and proceed directly to the New Hampshire Commission on Human Rights, with address and phone number, or Office of Civil Rights, with address and phone number; and

(k) The policy required by (j) above shall:

Be written in age appropriate language; and

Be published and available in written form to all those who must comply.

NH RSA 631:7 Student Hazing

I. For the purpose of this section:

(a) "Educational Institution" means any public or private high school, college, university or other secondary or post secondary educational establishment.

(b) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, athletic group, cooperative, club or service, social or similar group, whose members are or include students, operating at or in conjunction with an education institution.

(c) "Student" means any person regularly enrolled on a full-time or part-time basis as a student in an educational program

(d) "Student Hazing" means any act directed towards a student or any coercion or intimidation of a student to act or to participate in or submit to when:

(1) such act is likely or would be perceived by a reasonable person as likely to cause physical or psychological injury to any person; and

(2) such act is a condition of initiation into, admission into, continued membership in or association with any organization

II. (a) A natural person is guilty of a class B misdemeanor if such person:

(1) Knowingly participates as actor in any student hazing; or

(2) Being a student, knowingly submits to hazing and fails to report such hazing to law enforcement or educational institution authorities; or

(3) is present at or otherwise has direct knowledge of any student hazing and fails to report such hazing to law enforcement or education institution authorities.

(b) An educational institution or an organization operating at or in conjunction with an education institution is guilty of a misdemeanor if it:

(1) Knowingly permits or condones student hazing; or

(2) Knowingly or negligently fails to take reasonable measures within the scope of its authority to prevent student hazing; or

(3) Fails to report to law enforcement authorities any hazing reported to it by others or of which it otherwise has knowledge.

III. The implied or express consent of any person toward whom an act of hazing is directed shall not be a defense in any action brought under this section.

Endnotes

¹ AAUW Educational Foundation, *Hostile Hallways: The AAUW Survey on Sexual Harassment in America's Schools* (1993) (available at www.aauw.org/research/index.cfm).

² 20 U.S.C. §1681 et seq.

³ See *Revised Sexual Harassment Guidance Harassment of Students by School Employees, Other Students or Third Parties*. Department of Education. (200, 66 FR 5512 (January 19, 2001) (available at www.ed.gov/offices/OCR/shguide/shguide.pdf).

⁴ See *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999); *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998).

⁵ See *Notice of Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, 66 FR 5512 (January 19, 2001) (available at www.ed.gov/offices/OCR/shguide/index.html#Guidance).

⁶ *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999) (allowing a private individual to collect monetary damages from a school district when the school district was deliberately indifferent to the peer-to-peer sexual harassment that harmed the victim).

⁷ NH RSA 193-F (2001).

⁸ NH RSA 193-F:2 (2001).

⁹ NH RSA 193-F:3 (2001).

¹⁰ *Gebser v. Lago Vista School District*, 524 U.S. 274 (1998); *Franklin v. Gwinnet County Public Schools*, 503 U.S. 60 (1992).

¹¹ *Franklin v. Gwinnet County Public Schools*, 503 U.S. 60 (1992).

¹² *Gebser v. Lago Vista School District*, 524 U.S. 274 (1998).

¹³ *Gebser v. Lago Vista School District*, 524 U.S. 274 (1998).

¹⁴ *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).

¹⁵ *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999).

¹⁶ ED 303.01 (i), (j) and (k).

¹⁷ Please see: *Title VII of the Civil Rights Act of 1964*, 42 USC § 2000e-2(a) et seq., Title IX of the Education Amendments of 1972, 20 USC § 1681-1688, New Hampshire's Law Against Discrimination, NH RSA 354-A and ED 303.01 (i), (j), and (k).

¹⁸ 20 USC §1681 et seq.

¹⁹ See *Notice of Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, 66 FR 5512 (January 19, 2001) (available at www.ed.gov/gov/offices/OCR/shguide/index.html#Guidance).

²⁰ See *Notice of Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties*, 66 FR 5512 (January 19, 2001) (available at www.ed.gov/gov/offices/OCR/shguide/index.html#Guidance).

²¹ 42 U.S.C. § 2000d et seq.

²² 29 U.S.C. § 791 et seq.

²³ See *Mississippi University for Women v. Hogan*, 458 U.S. 718 (1982) (holding that nursing school policy violated the Equal Protection Clause even though it was supported by a Title IX exemption).

²⁴ 42 U.S.C. § 1981 et seq.

²⁵ The text of RSA 631:7 is provided in the appendix.

²⁶ Note that schools should have a separate policy for staff and high school, middle school, and elementary school, consistent with the school's mandate of having age-appropriate policies. This only makes sense, as a fifth grade student cannot fully comprehend language written in a staff sexual harassment policy. Many of the components of the policies will necessarily be different. Likewise, schools should develop anti-harassment policies which cover harassment based on race and national origin, for example, as well as bullying and hazing policies. Of course, there are other important policies and procedures a school should have in place relating to other forms of misconduct, such as child abuse and violations of the Safe Schools Act.